

## NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

Anne E. Olsen :

Claimant :

vs. :

CASE #92-00234  
AWARD

Thomas E. Hilldore :

Respondent :  
-----CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 22, 1992, Claimant Anne E. Olsen who appeared Pro Se, alleged that in September 1986 she was introduced to Respondent Thomas E. Hilldore, Assistant V.P. of Investments of Adams Centers by her sister-in-law, Helen Smolen, whereby she invested \$23,000 after she was assured that these funds would be put into a money market fund where they would be safe and insured, in addition to the fact that she would be able to withdraw these funds at any time. Claimant further alleged that she advised Respondent that she was on a small fixed income and that her investment objectives were for safe, conservative, insured investment whereby she would receive a monthly dividend, at which time, Claimant expressly advised Respondent that she did not want these funds invested in a mutual fund in that her husband had lost funds in the past. Claimant contended that on May 9, 1989 she tried to write a check for \$8,500.00 against this account and was informed that she did not have sufficient funds to cover the check, at which time, she discovered that her account was a mutual fund not a money market account. Claimant further contended that Respondent's misrepresentations and omissions, in addition to his inappropriate handling of her funds, caused her to sustain losses.

Respondent Thomas E. Hilldore who appeared Pro Se, maintained that in September 1986 Claimant Anne E. Olsen was referred to him by her sister-in-law, and his client, Helen Smolen and that she wanted to make the same investment that Ms. Smolen held, at which time, he explained to Claimant that Ms. Smolen had invested in a mutual fund of Michigan tax-free bonds, the Franklin Michigan Insured Tax-Free Bond Fund and it was discussed whether Claimant needed tax-free income or a higher income that was taxable. Respondent further maintained that Claimant advised him that her

investment goals were for high monthly income and liquidity in the event of a financial emergency, in addition to safety. Respondent contended that after discussing CD's, money markets, Ginnie Maes, and other investments, he clearly explained how a mutual fund worked. Respondent further contended that he discussed the Criterion U.S. Government High Yield Trust mutual fund with Claimant and provided her with a prospectus along with a brochure covering the Criterion fund. Respondent asserted that after Claimant, assisted by her sister-in-law, Helen Smolen, decided to invest in the Criterion fund the investment was made and Claimant began receiving her monthly income checks. Respondent further asserted that he later informed Claimant that she was writing a lot of checks against the fund and that this was reducing her principal, in addition to being completely against her investment objective for income. Respondent argued that Claimant had spent the principal and interest, whereby she turned a long term investment, which was designed to provide monthly income, into a checking account. Respondent further argued that he tried to explain to Claimant that between the net asset value dropping and her depleting the funds, this explained the value of her account, therefore, he is not liable for her losses.

#### RELIEF REQUESTED

Claimant Anne E. Olsen requested \$4,254.21 in actual damages.

Respondent Thomas E. Hildore requested the claim be dismissed.

#### AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David J. Schultz, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 27, 1992 and by the Respondent on April 29, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Thomas E. Hildore is liable and shall pay to the Claimant Anne E. Olsen the sum of \$2,150.00 in damages.
2. The parties shall bear their respective costs.

3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Anne E. Olsen shall be retained by the NASD, Inc. Respondent Thomas E. Hildore is liable and shall pay to the Claimant the sum of \$50.00 as reimbursement.

AFFIRMATION

I, DAVID J. SCHULTZ, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in black ink, appearing to read "David J. Schultz", written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: September 24, 1992